

1 PAUL J. SUTTON (SBN 36560)  
2 TERENCE J. CLARK (SBN 222315)  
3 ANDREW ELISEEV (SBN 203866)  
4 GREENBERG TRAURIG, LLP  
5 2450 Colorado Avenue, Suite 400E  
6 Santa Monica, California 90404  
7 Telephone: (310) 586-7700  
8 Facsimile: (310) 586-7800

9 Attorneys for Plaintiff  
10 Convex Promotions, Inc.

11 PAUL J. ANDRE (SBN 196585)  
12 LISA KOBIALKA (SBN 191404)  
13 PERKINS COIE LLP  
14 101 Jefferson Drive  
15 Menlo Park, California 94025-1114  
16 Telephone: (650) 838-4300  
17 Facsimile: (650) 838-4350

18 Attorneys for Defendant Acquire, Inc.

19 **UNITED STATES DISTRICT COURT**  
20  
21 **FOR NORTHERN DISTRICT OF CALIFORNIA**  
22  
23 **SAN FRANCISCO DIVISION**

24 CONVEX PROMOTIONS, INC., a  
25 Delaware corporation,

26 Plaintiff,

27 vs.

28 ACQUIRE, INC., a California corporation,

Defendant.

CASE NO. C-04-4153-PJH

**STIPULATION AND ~~PROPOSED~~  
ORDER TO TAKE OFF CALENDAR  
THE HEARING ON DEFENDANT  
ACQUIRE, INC.'S MOTION FOR  
LEAVE TO FILE A THIRD-PARTY  
COMPLAINT AND THE MARKMAN  
HEARING**

AND RELATED COUNTERCLAIMS.

1 WHEREAS, on October 18, 2005, United States Magistrate Judge Elizabeth D. Laporte entered  
2 an Order Setting Further Settlement Conference on October 28, 2005;

3 WHEREAS, both parties to this action along with their respective lead counsel attended the  
4 aforementioned settlement conference;

5 WHEREAS, at the aforementioned settlement conference, the parties agreed that Plaintiff  
6 Convex Promotions, Inc. ("Convex") shall provide a draft settlement agreement to Defendant Acquire,  
7 Inc. ("Acquire") by the close of business on November 2, 2005, and Acquire shall finalize the agreement  
8 by November 4, 2005;

9 WHEREAS, the parties also agreed that Convex would call Magistrate Judge Laporte's  
10 chambers by noon on November 4, 2005 to update her on the status of the settlement;

11 WHEREAS, the hearing for Acquire's Motion for Leave to File a Third-Party Complaint Against  
12 Viva Magnetics Limited and Prime Optical ("Motion for Leave to File") is scheduled on November 2,  
13 2005; and

14 WHEREAS, the Markman hearing is scheduled for November 16, 2005;

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 THE PARTIES, by and through their counsel, respectfully request that the Court take off  
2 calendar the November 2, 2005 hearing on Acquire's Motion for Leave to File and the Markman hearing  
3 until such time as agreed to by the parties at a later date.  
4

5 DATED: November 1, 2005

PAUL J. SUTTON  
TERENCE J. CLARK  
ANDREW ELISEEV  
GREENBERG TRAURIG, LLP

6  
7  
8  
9 By \_\_\_\_\_ /s/  
Andrew Eliseev

10 Attorneys for Plaintiff and Counter-Defendant  
11 Convex Promotions, Inc.

12 DATED: November 1, 2005

13 PAUL J. ANDRE  
14 LISA KOBIALKA  
SHREYA RAMCHANDANI  
PERKINS COIE LLP

15  
16 By \_\_\_\_\_  
17 Paul J. Andre  
18 Attorneys for Defendant and Counter-Claimant Acquire,  
19 Inc.

20 **ORDER**

21 IT IS SO ORDERED.

22 DATED: 11/1/05 \_\_\_\_\_



23 Phyllis J. Hamilton  
24 United States District Judge  
25  
26  
27  
28